

**ENTERED**

April 08, 2021

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION**ROCIO GUTIERREZ, ET AL.,  
Plaintiffs/Petitioners,

v.

CITY OF PORT ISABEL, ET AL.,  
Defendants/Respondents.§  
§  
§  
§  
§  
§  
§  
§

Civil Action No. 1:20-cv-00201

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Before the Court are these pleadings: Petitioners' "Motion to Remand and Brief in Support" ("Motion") (Dkt. No. 7), Respondents' "Response to Petitioners' Motion to Remand and Brief in Support of Removal" ("Response") (Dkt. No. 10), Petitioners' "Surreply [sic] to Respondents' Response to Petitioners' Motion to Remand" ("Reply") (Dkt. No. 12), and the "Magistrate Judge's Report and Recommendation" ("R&R") (Dkt. No. 13).

The R&R recommends this Court (1) grant, in part, Petitioners' Motion (Dkt. No. 7); (2) decline to exercise supplemental jurisdiction over the state issues pursuant to 28 U.S.C. § 1367; (3) sever and remand the state issues to the 404th Judicial District Court, Cameron County, Texas; (4) dismiss sua sponte Petitioners' Freedom of Information Act ("FOIA") claim for failure to state a claim "after notice of the Court's intention and an opportunity to respond" and (5) direct the Clerk of Court to close the case.


Objections were due March 30, 2021. No objections were filed by either party. If no objections are filed to a magistrate judge's ruling, the district court applies the "clearly erroneous, abuse of discretion and contrary to law" standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). Finding no clear error, abuse of discretion, or finding contrary to law, the R&R is **ADOPTED**.

Thus, Petitioners' Motion (Dkt. No. 7) is **GRANTED** in part. Even if Petitioners pleaded a FOIA claim, all state law claims are **SEVERED** from the FOIA claim. All state law claims are **REMANDED** to the 404th Judicial District Court, Cameron County, Texas.

If Petitioners wish to proceed with their FOIA claim, they are **ORDERED** to file a Memorandum of Law ("Memorandum") with this Court **no later than May 7, 2021** responding

to the R&R's conclusion the FOIA claim fails to state a claim. If Petitioners do not file a Memorandum by May 3, 2021, this Court will dismiss sua sponte the FOIA claim by separate order.

Signed on this 7<sup>th</sup> day of April, 2021.

  
\_\_\_\_\_  
Rolando Olvera  
United States District Judge